

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

IRA BROUS and MICHELLE SCHUSTER,
on behalf of themselves and all others similarly
situated,

Plaintiffs,

v.

**ELIGO ENERGY, LLC and ELIGO
ENERGY NY, LLC,**

Defendants.

Civil Case No.: 1:24-cv-01260-ER

**NOTICE OF WITHDRAWAL OF PLAINTIFFS' OPPOSITION TO DEFENDANTS'
MOTION TO DISMISS/STRIKE NON-NEW YORK CLAIMS**

PLEASE TAKE NOTICE that, upon consideration of the Court's guidance at the June 6, 2025 pre-motion conference, and to minimize the burden on the Court, Plaintiffs hereby withdraw their opposition (ECF No. 152) to Defendants' Motion to Dismiss/Strike Plaintiffs' Amended Complaint (ECF No. 140, the "Motion").

Given Plaintiffs' expectation that the Motion will now be granted, Plaintiffs respectfully request that the Court also grant Plaintiffs leave to amend the operative complaint to conform it with the Court's ruling on the Motion. Plaintiffs would also amend the caption and otherwise conform the complaint to the Court's April 22, 2025 ruling allowing the substitution of Anne Brous for Plaintiff Ira Brous, who passed away on March 23, 2024. These proposed amendments to the operative complaint are reflected in Plaintiffs' proposed Second Amended Class Action Complaint, docketed at ECF No. 207-1.

Dated: June 9, 2025

WITTELS MCINTURFF PALIKOVIC

By: /s/ J. Burkett McInturff
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Attorneys for Plaintiffs and the Proposed Class

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Notice of Withdrawal of Plaintiffs' Opposition to Defendants' Motion to Dismiss/Strike Non-New York claims was filed and served via ECF this 9th day of June 2025 upon all counsel of record.

/s/ J. Burkett McInturff
J. Burkett McInturff